FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE.

CIVIL APPLICATION ST. NO. 17231 OF 1997
IN
WRIT PETITION NO. 2839 OF 2003

Office Notes, Office Memorada orders or directions and Registrar's orders.	Court's or Judge's Orders.

Shri K.S.Dewal for the petitioner
Shri R.S.Apte i/b. Y.K.Sharma for Respdt. no.2.

CORAM; A.P.DESHPANDE,J.

DTAED: 07TH SEPTEMBER, 2007.

P.C.

1. By this application, the original petitionher no.1 seeks to bring on record the legal representatives of the petitioner no.2 who expired on 26-5-2007. The learned counsel for the respondent has no objection. The application thus stands allowed and disposed of.

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FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE.
CIVIL APPLICATION NO. 1928 OF 2007
IN
WRIT PETITION NO. 2839 OF 2003

Office Notes, Office Memorada orders or directions and Registrar's orders.	Court's or Judge's Orders.

Shri R.S.Apte i/b. Y.K. Sharma for the petitioner.
Shri K.S.Dewal for the respdt.

CORAM; A.P.DESHPANDE,J.

DTAED: 07TH SEPTEMBER, 2007.

P.C.

1. The learned counsel for the petitioner, who has moved this injunction application seeks permission to withdraw the same with liberty to make a prayer for injunction in a pending suit bearing No. RCS 158/07 of Civil Judge J.D. Vasai. Allowed to be withdrawn with liberty as prayed for. Barring this C.A. all other Civil applications are disposed of in view of the disposal of the writ petition.

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO. 2839 OF 2003

Philips Antone Lope & anr..... Petitioner

versus

Sub-Divisional Officer & ors..... Respondent.

Shri K.S.Dewal for the petitioner
Mrs. V.S.Mhaispurkar AGP for respondents 1,& 3.
Shri Ram Apte with S.M.Gorwadkar with Y.K.Sharma for Respondent no.2.

CORAM; A.P. DESHPANDE, J.
DATED; 07TH SEPTEMBER, 2007

P.C.;

1. On a joint request made by the learned advocates appearing for the respective parties, the matter is taken up for final hearing. As the writ petition is to be disposed of on concession of the learned advocates, the facts are narrated in brief.

2. A dispute pertaining to the mutation entry was decided by the Addl.Commissioner by an order dated 6-7-2001. The revision application came to be allowed. The respondent in the said revision by name Manibai Ramu expired on 7-8-2001. After the death of

Manibai her power of attorney holder filed second revision before the State Government on 14-8-2001. It is relevant to note that the revision was filed by the Power of Attorney holder in the name of deceased. Till the decision of the revision by the Minister concerned, the L.Rs. of the deceased, Revisional applicant, were not brought on record. The Revisional authority ultimately allowed the second revision and aggreived thereby the present writ petition has been filed.

3. During pendency of this petition, the petitioner moved a Civil Application for bringing L.Rs. of the respondent no.2 on record vide C.A. No. 188/07. By the said application one Ramu Jadhav, the husband of the deceased Manibai is sought to be brought on record. I am informed by the learned advocates that besides Ramu other two persons have also filed an application for bringing their names on record as L.Rs. of Manibai and for that purpose an application was moved. This court passed an order directing consideration of the said application at the time of final hearing of the writ petition. The application for bringing L.R. on record was initially opposed by the respondents by contending that the present writ petition has been filed against a dead person. In

reply to the said submission, the learned counsel for the petitioner has contended that the mistake lies with the respondent in as much as the revision that was filed before the State Government was itself filed in the name of a dead person and on account of it the petitioner was constrained to file the present petition against a dead person. It is also submitted that the petitioner was not aware about the names and adress of L.Rs. of Manibai. Be it as it may, in the above fact situation, both the learned advocates make a joint prayer to set aside the impugned order passed by the State Government and remand the matter to the State Government for denovo trial and decision after affording an opportunity of hearing to all concerned. The advocates are in agreement that the respondent herein shall be permitted to present a corrected memo of revision in the name of L.Rs. of deceased before the State Government. The learned counsel appearing for the proposed L.Rs. Ramu, on instructions from him who is present before the court, makes a statement that Ramu and two other persons namely Yamu Zilo Vighne and Vonita Vishnu Vighne shall also join as L.Rs. of deceased Manibai. In view of the joint request made by the learned advocates, the impugned order passed by the Minister dated 31-12-2002 is quashed and set aside. The matter is remanded to the

State Government for denovo hearing and trial of the revision. The respopndent is permitted to place on record of the State Government the memo of revision filed in the name of L.Rs. of deceased Manibai, which shall be treated as a revision filed by the respondent challenging the order passed by the Addl.Commissioner dated 6-7-2001. The concerned Minister shall then proceed to decide the revision in accordance with the law. I hope and trust that the Minister will decide the revision as expeditiously as possible preferably within a period of six months. Rule made absolute in the above terms. All contentions are left open to be urged before the Minister concerned on behalf of both the parties.

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